

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Zurich American Insurance Company

Plaintiff,

vs.

Asphalt Paving Systems, Inc.

Defendant.

Civil Action No.:

1:22-cv-01535-CPO-MJS

**JOINT MOTION TO EXTEND CASE
MANAGEMENT DEADLINES**

Plaintiff Zurich American Insurance Company (“Zurich”) and Defendant Asphalt Paving Systems, Inc. (“Asphalt”), pursuant to Rule 16 of the Federal Rules of Civil Procedure and Local Rule 6.1, jointly move this Court to extend all remaining case management deadlines by approximately 60 days. The parties have not previously requested any other extensions of these deadlines. In support, the parties jointly state:

Procedural History

1. Zurich commenced this action against Asphalt on March 18, 2022, and Asphalt was served with process on March 25, 2022. (ECF Nos. 1, 5.)

2. Thereafter, Asphalt filed a partial motion to dismiss, and Asphalt objected to discovery while the motion to dismiss was pending. (ECF Nos. 30, 34.)

3. On January 13, 2023, this Court entered an Order granting in part and denying in part Asphalt’s motion to dismiss. (ECF No. 35-36.)

Scheduling Order

4. The Court conducted an Initial Conference on March 1, 2023. (ECF No. 39.)

5. Following the Initial Conference, the Court entered its Scheduling Order setting various case management deadlines. (ECF No. 42.)

6. Among other deadlines, the Court directed that “Pretrial factual discovery will expire on November 30, 2023.” (*Id.* at ¶ 4.)

Discovery to Date

7. Consistent with the Scheduling Order, the parties each made initial disclosures by March 15, 2023 and served their initial written discovery requests by April 1, 2023. (*Id.* at ¶ 1).

8. Zurich’s responses to Asphalt’s written discovery requests are complete, and there are no disputes surrounding those responses.

9. Asphalt’s responses to Zurich’s written discovery requests are not complete.

10. Zurich sent Asphalt a discovery deficiency letter on June 27, 2023 raising several disputes with Asphalt’s responses to Zurich’s document and interrogatory requests. (*See* Ex. A.) The parties met and conferred about the disputes by video conference on July 6, 2023. During the conference, Asphalt agreed to produce the additional documents and information requested by Zurich by August 1, 2023.

11. Since that time, Asphalt has supplemented its discovery responses and produced additional documents and information on July 24 and August 18 and 31, 2023. Asphalt’s document production, however, is still not complete. Most significantly, Asphalt has still not produced its email communications related to the parties’ disputes, citing technical difficulties.

12. Asphalt expects to complete its document production by no later than September 21, 2023.¹

13. Apart from written discovery, Zurich seeks to take several depositions in this matter. Zurich believes that Asphalt’s outstanding documents are critical to the depositions. Therefore, in the interests of efficiency, Zurich seeks to take these depositions after Asphalt’s

¹ If Asphalt does not complete the production by September 21st, as it commits to do, Zurich may require additional time to complete discovery.

production is complete, so that Zurich may question the witnesses about the documents. Zurich then expects to issue supplemental written discovery requests and take a supplemental round of depositions based on the additional documents and testimony received.

Request for Extension of Time

14. The parties therefore seek a 60-day extension of time to complete fact discovery, so that there is additional time to obtain the remaining documents, complete the depositions, and serve supplemental discovery requests. The parties further request that expert discovery similarly be extended by 60 days, as the fact discovery will be important to the expert opinions.

15. An approximately 60-day extension results in the following updated case management schedule:

	Current Deadline	Extended Deadline
Pretrial factual discovery	November 30, 2023	January 30, 2024
Plaintiff's expert disclosures	December 15, 2023	February 15, 2024
Defendant's expert disclosures	January 15, 2024	March 15, 2024
Expert depositions	February 16, 2024	April 16, 2024
Dispositive motions	March 15, 2024	May 15, 2024

16. This motion is made prior to the expiration of the existing discovery period. (See ECF No. 42.)

17. The parties have not previously requested any other extensions of the deadlines set forth in the Scheduling Order.

18. “Good cause” exists to modify the Scheduling Order because “the deadlines set forth in the scheduling order ‘cannot reasonably be met despite the diligence of the party seeking the extension,’” for the reasons explained above. *Davis v. Twp. of Paulsboro*, No. 02-cv-3659-

JEI, 2005 WL 8174843, at *3 (D.N.J. Aug. 18, 2005) (citations omitted); *see also Hall v. Cole*, No. 08-cv-5904-NLH-AMD, 2009 WL 3152120, at *2 (D.N.J. Sept. 25, 2009) (finding good cause for an extension).

WHEREFORE, the parties jointly and respectfully request the Court to enter an Order extending the remaining case management deadlines by approximately 60 days, consistent with Paragraph 15 above. A proposed order is submitted herewith.

JOINTLY SUBMITTED BY:

PLAINTIFF

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